

UNITED STATES DISTRICT COURT
SOUTHERN DISTRICT OF NEW YORK
AT WHITE PLAINS

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ALAN J. POMPER,

Plaintiff

-against-

Case No. 08CV/0884

(Briant, J.)

COHEN & SLAMOWITZ, LLP., CHARIS FORD,
ESQUIRE, DAVID A. COHEN, ESQUIRE. MITCHELL G.
SLAMOWITZ, ESQUIRE, JOHN AND JANE DOE,
ONE UP, EMPLOYEES OF COHEN & SLAMOWITZ, LLP.
EMPLOYEES OF THOMAS ROBERT STEVENS, ESQUIRE
AND THOMAS ROBERT STEVENS, ESQUIRE.

Defendants.
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**ANSWER OF ALL DEFENDANTS
WITH AFFIRMATIVE DEFENSES AND COUNTERCLAIM**

Defendants Cohen & Slamowitz, LLP., Charis Ford, Esq, David A. Cohen, Esq. Mitchell G. Slamowitz, Esq., Thomas Robert Stevens, Esq. (collectively the “Defendants”), by and through their counsel, The Law Offices of Michael G. Mc Auliffe, Esq., as and for their Answer to the Plaintiff’s Complaint filed January 25, 2008, respectfully set forth and represent as follows:

1. Denies the allegations contained in paragraphs 11, 12, 13, 14, 15, 16 (incorrectly numbered 15), 18, (incorrectly numbered 17), 19 (incorrectly numbered 18), 22, (incorrectly numbered 21), 24, (incorrectly numbered 23), 27 (incorrectly numbered 26), 31 (incorrectly numbered 30), 34 (incorrectly numbered 33), 35 (incorrectly numbered 34), 36 (incorrectly numbered 35) , 37 (incorrectly numbered 36), 38 (incorrectly numbered 37), 39 (incorrectly numbered 38), 40 (incorrectly numbered 39), 41 (incorrectly numbered 40) , 42 (incorrectly numbered 41) , 43 (incorrectly numbered 42) , 44 (incorrectly numbered 43) , 45 (incorrectly

numbered 44) , 46 (incorrectly numbered 45), 47 (incorrectly numbered 46), 48 (incorrectly numbered 47), 49 (incorrectly numbered 48), 50 (incorrectly numbered 49), 51 (incorrectly numbered 50), 52 (incorrectly numbered 51), 53 (incorrectly numbered 52), 54 (incorrectly numbered 53), 55 (incorrectly numbered 54), 56 (incorrectly numbered 55), 57 (incorrectly numbered 56), 58 (incorrectly numbered 57), 59 (incorrectly numbered 58), 61 (incorrectly numbered 60), 62 (incorrectly numbered 61), 63 (incorrectly numbered 62), 64 (incorrectly numbered 63), 65 (incorrectly numbered 64), and the “Wherefore Clause” of the Complaint.

2. Defendants deny knowledge and information sufficient to form a belief as to the truth of the allegations contained in paragraphs 3, 4, 7, 17, (incorrectly numbered 16), 20 (incorrectly numbered 19), 21 (incorrectly numbered 20), 23 (incorrectly numbered 35), 25 (incorrectly numbered 24), 26 (incorrectly numbered 25), 28 (incorrectly numbered 27), 29 (incorrectly numbered 28), 30 (incorrectly numbered 29) and 32 (incorrectly numbered 31) of the Complaint.

3. Admit the allegations contained in paragraphs 6 of the Complaint.

4. With regard to the allegations set forth in paragraph 1 of the Complaint, Defendant, Cohen & Slamowitz denies the allegation of wrong doing and submits that all other allegations calls for a legal conclusion, and accordingly, refer all matters of law and legal interpretation to the Court. To the extent that a response is required, Defendants deny knowledge and information sufficient to form a belief as to the allegations set forth therein.

5. With regard to the allegations set forth in paragraph 2, 8 and 9 of the Complaint, Defendants submit that said paragraph calls for a legal conclusion, and accordingly, refer all matters of law and legal interpretation to the Court. To the extent that a response is required, Defendants deny knowledge and information sufficient to form a belief as to the allegations set forth therein.

6. With regard to the allegations set forth in paragraph 10 of the Complaint, Defendant, Cohen & Slamowitz denies it is a professional corporation and admits doing business at 199 Crossways Park Drive, Woodbury, New York 11797. Defendant denies knowledge and information sufficient to form a belief as to all other allegations set forth therein.

7. Defendants repeat, and reiterates the responses to the allegations set forth and referenced in paragraphs 60 (incorrectly numbered 59) of the Complaint herein.

AS AND FOR A FIRST AFFIRMATIVE DEFENSE

8. The causes of action set forth in the Complaint fail to state a claim upon which relief may be granted.

9. By virtue of the foregoing, the Complaint should be dismissed, with prejudice.

AS AND FOR A SECOND AFFIRMATIVE DEFENSE

10. The Answering Defendants, Charis Ford, Esq., David A. Cohen, Esq. Mitchell G. Slamowitz, Esq., Thomas Robert Stevens, Esq. are not subject to the jurisdiction of this Court as they were never properly served.

11. By virtue of the foregoing, the Complaint should be dismissed as against the Defendants.

AS AND FOR A THIRD AFFIRMATIVE DEFENSE

12. The Complaint fails to state a cause of action upon which relief may be granted.

13. By virtue of the foregoing, the Complaint should be dismissed as against the Defendants.

AS AND FOR A FOURTH AFFIRMATIVE DEFENSE

14. The Plaintiff's causes of action are not supported by the documentary evidence.

15. By virtue of the foregoing, the Complaint should be dismissed as against the Defendants.

AS AND FOR A FIFTH AFFIRMATIVE DEFENSE

16. If the Plaintiff has incurred any damages herein, it is as a result of their own culpable conduct, and not that of the Defendants.

17. By virtue of the foregoing, the Complaint should be dismissed as against the Defendants.

AS AND FOR A FIRST COUNTERCLAIM AGAINST PLAINTIFF

18. Defendants repeat, reiterate and reallege each and every response contained in paragraphs "1" through "17", inclusive, with the same force and effect as if set forth at length herein.

19. Defendants submit that the instant action has been interposed by Plaintiff in bad faith and for the purpose of harassment.

20. By virtue of the foregoing, pursuant to 15 U.S.C. 1692k(a)(3), Defendants are entitled to an award of reasonable attorneys fees and costs incurred herein.

WHEREFORE, Defendants respectfully demand judgment dismissing the Complaint herein in its entirety, and granting Defendants judgment on their counterclaim, together with such other, further and different relief as this Court deems just and proper.

Dated: Melville, New York
March 11, 2008

Law Offices of Michael G. Mc Auliffe, Esq.
Counsel to Defendants

By: /s/ Michael G. Mc Auliffe
Michael G. Mc Auliffe, Esq.
48 South Service Road, Suite 102
Melville, New York 11747
(631) 465-0044

UNITED STATES DISTRICT COURT
SOUTHERN DISTRICT OF NEW YORK
AT WHITE PLAINS

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ALAN J. POMPER,

Case No. 08CV/0884

Plaintiff

-against-

(Briant, J.)

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Defendants.

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AFFIDAVIT OF SERVICE BY FIRST CLASS MAIL

STATE OF NEW YORK)
)
COUNTY OF SUFFOLK)

Andrea Savin, being duly sworn, deposes and says:

I am not a party in the above referenced action, am over 18 years of age and reside in Nassau County, New York. On March 11, 2008, I served a copy of the within **“ANSWER OF ALL DEFENDANTS WITH AFFIRMATIVE DEFENSES AND COUNTERCLAIM and RULE 7.1 STATEMENT”**, by depositing a true copy thereof enclosed in a post-paid wrapper, in an official depository under the exclusive care and custody of the U.S. Postal Service within New York State, addressed to each of the entities set forth below, at the last known address set forth after each name as follows:

Alan J. Pomper
93 Normandy Road, Fl 2
Yonkers, NY 10701

/s/ Andrea Savin
Andrea Savin

Sworn to before me on this 11th day
of March, 2008

/s/ Michael G. Mc Auliffe
NOTARY PUBLIC